

DEBRA J. CARFORA
BRANDON N. ADKINS
U.S. Department of Justice
Environmental Defense Section
P.O. Box 7611
Washington, D.C. 20044
Tel: (202) 514-2640
Fax: (202) 514-8865
Email: debra.carfora@usdoj.gov

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

CENTER FOR ENVIRONMENTAL
HEALTH, et al.,

Plaintiffs,

v.

MICHAEL S. REGAN, Administrator of the
United States Environmental Protection
Agency, and the UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY,

Defendants.

Case No. 4:21-cv-01535-PJH

**STIPULATION AND [PROPOSED]
ORDER TO PLACE CASE IN
ABEYANCE FOR 90 DAYS
PENDING COMPLETION OF
ADMINISTRATIVE PROCEEDINGS
TO RECONSIDER THE
CHALLENGED AGENCY ACTION**

Plaintiffs Center for Environmental Health, Cape Fear River Watch, Clean Cape Fear, Democracy Green, The NC Black Alliance, and Toxic Free NC ("Plaintiffs") and Defendants Michael S. Regan, in his official capacity as the Administrator of the United States Environmental Protection Agency, and the United States Environmental Protection Agency ("Defendants," and together with Plaintiffs, the "Parties") stipulate as follows:

WHEREAS, on March 3, 2021, Plaintiffs initiated this action by filing a Complaint for Declaratory and Injunctive Relief to challenge the January 7, 2021 denial of their October 14, 2020 petition under section 21 of the Toxic Substances Control Act ("TSCA"), ECF No. 1;

WHEREAS, on March 4, 2021, Plaintiffs submitted to Defendants a request to reconsider the January 7, 2020 petition denial for which Plaintiffs seek review in this matter ("Administrative Request for Reconsideration") and to grant the October 14, 2020 petition;

WHEREAS, on September 16, 2021, EPA Assistant Administrator Freedhoff informed counsel for Plaintiffs that EPA has decided to exercise its discretion to grant Plaintiffs' Administrative Request for Reconsideration;

WHEREAS, EPA intends to complete its reconsideration of the challenged Agency action and make a decision to grant or deny the petition within 90 days after an order of the Court endorsing this stipulation, subject to any lapse in appropriations that would necessitate more time;

WHEREAS, upon completing reconsideration and deciding to grant or deny the petition, EPA will publish an explanation of that decision which addresses the principal issues raised by Plaintiffs' October 14, 2020 petition and the Administrative Request for Reconsideration;

WHEREAS, EPA memorialized its decision in correspondence to counsel for Plaintiffs dated September 16 and 29, 2021, which are attached as Exhibits A and B;

WHEREAS, EPA's reconsideration may result in actions that could obviate the need for judicial resolution of some or all of the disputed issues; and

WHEREAS, counsel for the Parties have met and conferred regarding scheduling, including the impact of EPA's granting the Administrative Request for Reconsideration, and agree that placing this case in abeyance for 90 days while EPA completes its administrative reconsideration of the challenged agency action and makes a decision to grant or deny Plaintiffs' petition will conserve judicial and party resources.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the Parties:

1. This case and all associated deadlines shall be held in abeyance for 90 days after an order of the Court endorsing this stipulation while EPA completes its reconsideration of the challenged Agency action and decides whether to grant or deny Plaintiffs' petition;

2. The Parties shall submit a joint motion or separate motions to govern future proceedings within 90 days after an order of the Court endorsing this stipulation;

3. EPA's deadline to respond to the Complaint is extended until further order of the Court resolving a joint or separate motions to govern future proceedings;

4. The deadline set forth in Paragraphs 1 and 2 may be extended by stipulation of the Parties or by the Court if warranted;

5. If a lapse in EPA appropriations occurs before the deadline in Paragraphs 1 and 2, the deadline shall be extended automatically by one day for each day of the lapse in appropriations; and

6. The Case Management Conference scheduled on October 21, 2021, at 2:00 p.m., is continued until further order of the Court.

Date: September 29, 2021

Respectfully Submitted,

/s/ Robert M. Sussman (with permission)

ROBERT M. SUSSMAN (D.C. Bar No. 226746)

Sussman & Associates

3301 Garfield Street, NW

Washington, D.C. 20008

Tel: (202) 716-0118

Email: Bobsussman1@comcast.net

MICHAEL CONNETT (CA Bar No. 300314)

Waters, Kraus & Paul

222 North Pacific Coast Highway

Suite 1900

El Segundo, California 90245

Tel: (310) 414-8146

Attorneys for Plaintiffs

1 Date: September 29, 2021

Respectfully Submitted,

2 /s/ Brandon N. Adkins

BRANDON N. ADKINS (D.C. Bar No. 1010947)

3 DEBRA J. CARFORA

United States Department of Justice

4 Environment & Natural Resources Division

5 P.O. Box 7611

Washington, D.C. 20044

6 Tel: (202) 616-9174

7 Fax: (202) 514-8865

Email: brandon.adkins@usdoj.gov

8 *Attorneys for Defendants*

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11 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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14 DATED:

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PHYLLIS J. HAMILTON

16 United States District Judge
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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of September, 2021, a true and correct copy of the foregoing Stipulation and Proposed Order to Place Case in Abeyance Pending Administrative Proceedings to Reconsider the Challenged Agency Action was filed electronically with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Brandon N. Adkins
Brandon N. Adkins
United States Department of Justice